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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Barbara Allen, Richard Dippold,  
Melvin Jones, Donald McCarty,  
Richard Scates and Walter G. West,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

vs.

Honeywell Retirement Earnings Plan,  
Honeywell Secured Benefit Plan,  
Plan Administrator of Honeywell  
Retirement Earnings Plan, and Plan  
Administrator of Honeywell Secured  
Benefit Plan,

Defendants.

No. CV04-0424 PHX ROS

**DEFENDANTS' RESPONSE TO  
PLAINTIFFS' SEPARATE  
STATEMENT OF FACTS  
IN SUPPORT OF  
PLAINTIFFS'  
MOTION FOR SUMMARY  
JUDGMENT ON STATUTE OF  
LIMITATIONS**

1 Pursuant to Local Rule 56.1(b), defendants set forth the following Response to  
2 Plaintiffs' Separate Statement of Facts in Support of Plaintiffs' Motion for Summary  
3 Judgment on Statute of Limitations:

4 1. Disputed in part. Beginning in June 2001, Susan Martin, Esq., on behalf  
5 Richard Scates, a named plaintiff in this action, and two other participants who are not  
6 named plaintiffs in this action, requested information from the defendant plan  
7 administrator of the Honeywell Retirement Earnings Plan, including the Signal  
8 Company's Retirement Plan plan document as in effect in 1983 and thereafter and all  
9 amendments thereto. Decl. of Marie Gangone ¶ 3 & Exs. 1-5 (Docket #33). Plaintiffs'  
10 assertion that plaintiffs first requested information from Defendants in June 2001 is not  
11 supported by the documents they cite.

12 2. Disputed in part. The evidence that plaintiffs cite in support of their  
13 allegation is inadmissible for the purpose of establishing the facts that plaintiffs allege.  
14 On August 15, 2001, defendants sent Ms. Martin (in her capacity as attorney for Richard  
15 Scates, a named plaintiff in this action, and two other participants who are not named  
16 plaintiffs in this action) copies of various documents, including "The Signal Company  
17 Inc. Retirement Plan" dated May 1, 1985 and January 1, 1986. Gangone Decl., Ex. 11.

18 3. Disputed in part. On October 1, 2003, in response to Ms. Martin's  
19 requests on behalf of Mr. Scates and two other participants who are not named plaintiffs  
20 in this action, Honeywell provided Ms. Martin with a copy of The Signal Companies,  
21 Inc. Retirement Plan effective January 1, 1984 and offered Ms. Martin the opportunity to  
22 supplement her administrative appeal on behalf of several hundred "Retirees." Gangone  
23 Decl. ¶ 6 & Ex. 17.

24 4. Disputed. Plaintiffs' allegation conflicts with the cited declaration.

25 5. Undisputed.

26 6. Disputed in part. Plaintiffs' allegation is vague and ambiguous as to the  
27 "Plan" and the "Sections of the Garrett Plan" and misquotes the Retirement Plan For  
28 Employees Of The Garrett Corporation And Its Participating Subsidiary Companies (the

1 “Garrett Retirement Plan”). The Normal Retirement Benefit in the Garrett Retirement  
2 Plan is computed using a participant’s Potential Retirement Income from the Severance  
3 Plan and the participant’s Actual Retirement Income from the Severance Plan. Decl. of  
4 Amy Promislo, Ex. A, at HW 32-33 (Docket #16). The Garrett Retirement Plan states  
5 that “[a] Participant’s Potential Retirement Income from the Severance Plan shall be  
6 calculated pursuant to the tables set forth in Exhibit B (and any necessary interpolations  
7 or extrapolations from those tables)” and that “[a] Participant’s Actual Retirement  
8 Income from the Severance Plan shall be based on the tables set forth in Exhibit B (and  
9 any necessary interpolations and extrapolations from these tables).” *Id.* at HW 38-41.

10 7. Disputed in part. Ms. Martin, in her capacity as attorney for Richard  
11 Scates, a named plaintiff in this action and two other participants who are not named  
12 plaintiffs in this action, requested defendants to provide her with a copy of “Exhibit B”  
13 to the Garrett Retirement Plan on September 5, 2001, and again in letters dated  
14 December 17, 2001 and December 20, 2001. Gangone Decl., Exs. 5, 7, 8.

15 8. Undisputed.

16 9. Disputed. The documents plaintiffs cite do not support their allegation.

17 10. Disputed in part. Plaintiffs’ allegation is vague and ambiguous as to what  
18 “claims” they contend were “first asserted under the Plan’s claims procedure on July 26,  
19 2002.” On July 26, 2002, Ms. Martin submitted a benefit claim setting forth the same  
20 claims that plaintiffs are pursuing in this litigation as “counsel to several hundred former  
21 Garrett Corporation salaried employees or their surviving spouses (‘Retirees’) who were  
22 participants in the Retirement Plan for Employees of the Garrett Corporation and its  
23 Participating Subsidiaries ... and the Severance Plan for Employees of the Garrett  
24 Corporation and its Participating Subsidiaries.” Promislo Decl., Ex. I; Gangone Decl.  
25 ¶ 5.

26 11. Disputed in part. Plaintiffs’ allegation is not supported by the July 1, 2003  
27 letter they cite. Brian Marcotte, the Plan Administrator for the Honeywell Retirement  
28 Earnings Plan, finally denied the Retirees’ claims on October 29, 2003. Promislo Decl.,

Ex. O.

12. Undisputed.

13. Disputed in part. The evidence that plaintiffs cite supports their allegation only as to named plaintiffs Richard Scates and Melvin Jones.

14. Undisputed.

15. Disputed. Plaintiffs' allegation is not supported by the declaration they cite. That declaration states that "over 1000 employees were scheduled to attend" four town hall meetings for Phoenix-based employees held in September 1995. Decl. of Craig Chapman ¶ 11 (Docket #188).

16. Undisputed.

17. Undisputed.

18. Disputed. Plaintiffs' allegation is vague and ambiguous in that plaintiffs do not explain what they mean by "the phantom growth of the SBA offset to age 65 if a participant leaves employment prior to that age."

19. Undisputed.

20. Disputed in part. Plaintiffs' allegation conflicts with the cited declaration. Tables of estimated Social Security benefits for the period 1983 through 1986 were provided to Ms. Martin on June 16, 2006. Decl. of Jennifer Kroll, Ex. A (Docket #345).

Respectfully submitted this 11th day of January, 2008.

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By: /s/David B. Rosenbaum.

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CERTIFICATE OF SERVICE

I do certify that on January 11, 2008, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants.

s/Kelly Dourlein